

## REMARKS

Claims 21-52 were pending in the present application. In the above amendments, claims 21, 26, 29, 37 and 45-52 are amended. The claim amendments are supported by at least paragraphs [0042]-[0050] of the published application and thus, no new matter is added by way of the claim amendments. Therefore, after entry of the above amendments, claims 21-52 remain pending in this application for reconsideration. Applicants believe that the present application is now in condition for allowance, which prompt and favorable action is respectfully requested.

### **Response to Claim Objections Under 37 C.F.R. § 1.126**

In the Office Action, the claims are objected to under 37 C.F.R. § 1.126 because there are two claims 25. The above amendments correct the numbering of claim 26, as suggested by the Examiner. Accordingly, Applicants request withdrawal of the objection under 37 C.F.R. § 1.126.

### **Response to Claims Rejections Under 35 U.S.C. § 101**

In the Office Action, claims 45-52 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Claims 45-52 are amended add the term “non-transitory” to claims 45-52 consistent with the guidance provided in the Letter by the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, David Kappos, entitled Subject Matter Eligibility of Computer Readable Media, 1351 OG 212, dated February 23, 2010. Therefore, Applicants submit that amended claims 45-52 now recite statutorily patentable subject matter. Accordingly, Applicants request withdrawal of the rejections of claims 45-52 under 35 U.S.C. § 101.

### **Response to Claims Rejections Under 35 U.S.C. § 102**

In the Office Action, claims 21-25, 27-33, 35-41, 43-49, 51, and 52 stand rejected under 35 U.S.C. § 102 allegedly being anticipated by U.S. Patent No. 7,543,235 to Novak *et al.* (“Novak”). Applicants respectfully traverse these rejections because Novak fails to teach or suggest all of the elements recited in claims 21-25, 27-33, 35-41, 43-49, 51, and 52 as amended.

As stated in M.P.E.P. § 2131, to anticipate a claim, the reference must teach every element of the claim:

“ ‘A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.’ ”

*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... ‘The identical invention must be shown in as complete detail as is contained in the ... claim.’ *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim... *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).”

Further, as stated in M.P.E.P. 2143.03, “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

Independent claim 21 is amended to recite, *inter alia*, “defining an archive file hierarchy, wherein the archive file hierarchy includes a *plurality of archive files* and each of the plurality of archive files has a position in the archive file hierarchy in a range between a highest position and a lowest position, *wherein the plurality of archive files comprise at least one common archive file used by a plurality of applications and a plurality of application-specific archive files*” and “rendering each of the one or more user interface elements based on *the position in the archive file hierarchy of a respective archive file* in which each of the one or more user elements is stored” (Emphasis added). Each of independent claims 29, 37, and 45 is amended to recite the same or analogous elements. Support for the amendments to claims 21, 29, 37, and 45 may be found in at least FIG. 4 and paragraphs [0045]-[0050] of the published application (U.S. Patent Pub. No. 2007/0288856).

Applicant respectfully submits Novak fails to disclose an *archive file hierarchy* of a *plurality* of archive files. Instead, Novak only discloses a single archive file (i.e., skin) that can comprise multiple interface element files having a “z-order” to control the display thereof. *See* Novak, col. 6, line 43 to col. 7, line 42; and col. 9, lines 34-45. Applicants submit that this “z-order” is merely a hierarchy *within* a skin or archive, and that Novak does not disclose a defined hierarchy of a plurality of skins or archive files. Indeed, as claims 21, 29, 37, and 45 further recite “storing one or more user interface elements in *each* of the plurality of archive files,” it is clear that the recited “plurality of archive files” is not the same as the plurality of interface element files from a single skin that have the “z-order” in Novak.

For this reason, Applicants respectfully submit that claims 21, 29, 37, and 45 are patentable over Novak based upon a novel application of the defined hierarchy of the plurality of

archive files. The claims apply this hierarchy in the UI and recite “rendering each of the one or more user interface elements based on *the position in the archive file hierarchy of a respective archive file* in which each of the one or more user elements is stored” (emphasis added). Thus, in claims 21, 29, 37, and 45 an interface element is rendered (i.e., displayed) based upon the hierarchy of the archive file in which it is stored. In contrast, Novak renders interface images based on their “z-order” *within* the skin (i.e., based upon an interface element’s hierarchy *within* an archive file if the skin is considered an archive file), as illustrated in FIGs. 5, 6, 7 and 8 of Novak.

Applicants further submit that Novak is silent with respect to “the plurality of archive files compris[ing] at least one *common archive file* used by a plurality of applications and a plurality of *application-specific archive files*,” as now recited in claims 21, 29, 37, and 45. As explained in paragraph [0045] of Applicants’ published specification:

This method is of significant use where an archive file is needed by more than one application on a device (such an archive file may be referred to as the common archive or base archive). Each application can then supply their own application-specific archive file that masks some of the resources in the common archive file and adds further resources that are required. Each application has a list of archive file(s) that it uses, but some of these archive files will be used by other applications as well. This can be thought of as a hierarchy of archive files: the common archive files are at the top layer of the hierarchy, with the application-specific archive files comprising the lower layers of the hierarchy. Archive files specific to an application may be referred to as flat files, as the different archive files are to be found in the same layer of the hierarchy.

For at least these reasons, Applicants respectfully submit that independent claims 21, 29, 37 and 45 are patentable over Novak because the reference fails to teach or suggest all of the elements recited in the claims as amended. Applicants submit that dependent claims 22-25, 27-28, 30-33, 35-36, 38-41, 43-44, 46-49 and 51-52 are also patentable over Novak for depending directly or indirectly from one of allowable claims 21, 29, 37 and 45. Accordingly, Applicants respectfully request withdrawal of the rejections of claims 21-25, 27-33, 35-41, 43-49 and 51-52 under 35 U.S.C. § 102(e).

**Response to Claims Rejections Under 35 U.S.C. § 103**

Claims 26, 34, 42, and 50 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Novak and U.S. Patent Publication No. 2005/0108648 to Olander et al.

("Olander"). Applicants respectfully traverse these rejections because neither Novak nor Olander, taken alone or in combination, teach or suggest all of the elements recited in the claims.

When evaluating claims for obviousness, "the prior art as a whole must be considered. The teachings are to be viewed as they would have been viewed by one of ordinary skill." *In re Hedges*, 783 F.2d 1038, 1041 (Fed. Cir. 1986). Thus, "[i]t is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." *Id.* (quoting *In re Wesslau*, 353 F.2d 238, 241 (CCPA)). Moreover, "obviousness requires a suggestion of all limitations in a claim." *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (citing *In re Royka*, 490 F.2d 981, 985 (CCPA 1974)).

The Office Action admits that "Novak does not teach the element [in one or more archive files] is a windowtitle.txt element that defines one or more attributes for text used in a tile of a window to be rendered at a display." Office Action dated February 1, 2012, page 6. In order to cure the admitted deficiencies of Novak, the Office Action cites Olander. *See id.*

As submitted above with respect to anticipation under 35 U.S.C. § 102, Novak fails to disclose or suggest all elements of amended independent claims 21, 29, 37 and 45 from which claims 26, 34, 42 and 50 depend, respectively.

Applicant submits that regardless of whether Olander cures the admitted deficiencies of Novak, Olander does not teach or suggest "defining an archive file hierarchy, wherein the archive file hierarchy includes a plurality of archive files and each of the plurality of archive files has a position in the archive file hierarchy in a range between a highest position and a lowest position, wherein the plurality of archive files comprise at least one common archive file used by a plurality of applications and a plurality of application-specific archive files" as recited in claims 21, 29, 37, and 45 from which claims 26, 34, 42 and 50 depend, respectively. Moreover, while FIG. 2 of Olander discloses a hierarchy or tree of a web control taxonomy for a GUI for web portals or web applications, it fails to disclose a hierarchy of archive files and "rendering each of the one or more user interface elements based on the position of a respective archive file in which each of the one or more user elements is stored," as recited in the claims in view of the amendments to independent claims 21, 29, 37, and 45. Therefore, Applicant submits that claims

26, 34, 42 and 50 are patentable over the Novak and Olander because the references, taken alone or in combination, fail to disclose all of the elements recited in the claims by depending from one of amended independent claims 21, 29, 37, and 45. Accordingly, Applicant respectfully requests withdrawal of the rejections of claims 26, 34, 42 and 50 under 35 U.S.C. § 103(a).

### CONCLUSION

In light of the foregoing amendments and remarks, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: March 5, 2012

By: /Nicholas A. Cole/

Nicholas A. Cole

Reg. No. 60,957

(858) 658-1834

Associate Patent Counsel  
QUALCOMM Incorporated  
Attn: Patent Department  
5775 Morehouse Drive  
San Diego, California 92121-1714, U.S.A.  
Telephone: (858) 658-1834  
Facsimile: (858) 845-3941  
Email: [ncole@qualcomm.com](mailto:ncole@qualcomm.com)